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No. 88-1283

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IN THE
Supreme Court of the United States
OCTOBER TERM, 1989

ARCADIA, OHIO, *et al.*,
Petitioners,

v.

OHIO POWER COMPANY, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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BRIEF ON BEHALF OF RESPONDENTS LCP CHEMICALS, INC., MORAY CORPORATION, OLIN CORPORATION, AND PPG INDUSTRIES, INC.

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May 25, 1990

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TABLE OF CONTENTS

	Page
DESCRIPTION OF INDUSTRIAL RESPONDENTS	1
STATEMENT	2
CONCLUSION	3

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BRIEF ON BEHALF OF RESPONDENTS LCP CHEMICALS, INC., MOBAY CORPORATION, OLIN CORPORATION, AND PPG INDUSTRIES, INC.

DESCRIPTION OF INDUSTRIAL RESPONDENTS

This brief is presented on behalf of LCP Chemicals, Inc., Mobay Corporation,* Olin Corporation, and PPG Industries, Inc., collectively referred to herein as "Industrial Respondents." Industrial Respondents were intervenors in the cases below before the Federal Energy Regulatory Commission and the Court of Appeals. Industrial Respondents are large West Virginia industrial

* Mobay Corporation is a wholly-owned subsidiary of Bayer, a German corporation.

retail electric service customers of Wheeling Power Company ("Wheeling"), an entire requirements wholesale customer of Respondent Ohio Power Company ("Ohio Power"). Wheeling and Ohio Power are two of the eight operating public utility subsidiaries of American Electric Power Company ("AEP").

Industrial Respondents collectively purchase 680 million to 820 million kilowatthours per year at retail rates set for Wheeling by the Public Service Commission of West Virginia ("PSCWV"). Industrial Respondents' electricity purchases represent approximately 42 percent of Wheeling's West Virginia retail business. The PSCWV includes in Wheeling's rates a component, adjusted at least semi-annually, to provide for recovery of the cost of wholesale power and energy it purchases from Ohio Power. Thus, the cost of power purchased by Industrial Respondents includes the cost of Wheeling's purchase from Ohio Power, including the cost at issue in this proceeding.[1]

Of the $19.394 million Ohio Power refunded to Wheeling on May 6, 1988 covering the period from July 1982 through January 1988, approximately $4.309 million or 42 percent would be due to the Industrial Respondents, exclusive of additional refunds and interest accruing since that time.

STATEMENT

Industrial Respondents accept and adopt the Brief filed by Petitioners, Arcadia, Ohio, et al.

All applicable statutes, regulations, decisions, and authorities are contained in the Brief filed by Petitioners, Arcadia, Ohio, et al.

[1] Ohio Power's wholesale rates to Wheeling and to petitioners are not identical but are affected in the same manner by the issues raised in the petition for certiorari.

CONCLUSION

The relief requested by Petitioners, Arcadia, Ohio, et al., should be granted.

Respectfully submitted,

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